IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2250 OF 2005.

M/s New Jewel Tech India Ltd. ..Petitioner.

V/s.

Union of India & ors. .. Respondent.

Ms. Neha Bhide i/b M/s Khaitan and Jaykarn for the petitioner.

Shri S.M.Shah with Y. S. Bhate for the respondents.

CORAM : V.C.DAGA AND J.P. DEVADHAR, JJ.

DATED : 27.9. 2005.

P.C. :

. This petition is directed against the order dated 27.4.2005 (Ex.J.) passed by the Customs Excise and Service Tax Appellate Tribunal, WR,Mumbai, ('Tribunal' for short), dismissing the appeal for non-compliance of the statutory requirement of sec. 129E of the Customs Act. The petitioner (the appellant before the Tribunal) did not deposit the amount as directed by the Tribunal vide its order dated 12.1.2005. Petitioner has also challenged said order dated 12.1.2005, directing the it to deposit Rs. 25 lacs pursuant to section 129E of the Customs Act.

2. During the course of hearing, looking to the consensus betwen the parties, petitioner has filed

an undertaking dated 27.9.2005 before this Court stating that, it shall deposit Rs. 25 lacs with the 3rd respondent pursuant to the order passed by the Tribunal dated 12.1.2005 (wrongly mentioned as 24.1.2005 in the undertaking), within 8 weeks from today, i.e. on or before 27.11.2005. Learned Counsel appearing for the petitioner submits that the said undertaking be accepted reading with correction as indicated hereinabove and the impugned order be set aside and appeal be restored to the file of the Tribunal. There is no strong opposation from the respondents to this suggestion.

3. Thus, considering the consensus between the parties, the impugned order dated 27.4.2005 (Ex.J.) is liable to be set aside subject to petitioner's depositing a sum of Rs. 25 lacs with the 3rd respondent on or before 27.11.2005. In this view of the matter, in the event of such deposit, the impugned order dated 12.1.2005 shall stand set aside and appeal shall stand restored to the file of the Tribunal for being decided on its own merits.

4. Needless to mention that in the event of non-compliance of the aforesaid undertaking furnished by the petitioner dated 27.9.2005, (taken on record and marked X for identification), this petition shall stand dismissed with costs quantified in the sum of Rs. 10,000/- (ten thousand).

5. Petition stands disposed of in terms of this order with no order as to costs.

(J.P. DEVADHAR,J.) **(V.C. DAGA,J.)**